IN THE HIGH COURT OF BOMBAY AT GOA
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WRIT PETITION NO. 406 OF 2002

Shri Ananta Laxman Borkar,
of full age, married,
businessman and landlord,
r/o House No.56, Tiska,
Ponda, Goa. ... Petitioner

Versus

Shri Krishnakumar Ramchandra
Oza of full age, businessman,
carrying on business in the
name and style "Shashi Darbar",
Hotel Musafir, Tiska, Ponda,
Goa, presently Canteen Contractor,
Govt. Circuit House, Altinho,
Panaji, Goa. ... Respondent.

Shri R. G. Ramani, advocate for the petitioner.

Shri V. Menezes, advocate for the respondent.

CORAM : F. I. REBELLO, J.

DATE : 26th June, 2003.

ORAL JUDGMENT

Rule. Respondents waive service. Heard forthwith.

It is not possible to support the impugned Order. Parties themselves agree that the matter will have to be decided on merits on the points urged by the parties. Mere failure by the bailiff not to lift the attachment by itself would not be ground to reject the application for execution when further steps are to be taken to give effect to the provisions of Order 21 Rule 54 of the Code of Civil Procedure.

In the light of that the impugned Order dated 6th July, 2002 is set aside. Rule made absolute in terms of

prayer Clause (a). The matter is remanded to the trial Court with a direction to hear the parties on merits on all the objections raised by them. No order as to costs.

F. I. REBELLO, J.

mc.